

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5966 of 1985

Date of decision: 2-9-97

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

INDRAVADAN N PATEL

Versus

STATE OF GUJARAT

Appearance:

None present for Petitioner

Siddhi Talati for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/09/97

ORAL JUDGEMENT

The matter was called out in the first round, second round and lastly in the third round. None put appearance on behalf of the petitioner. Heard the learned counsel for the respondent and perused the papers of special civil application.

The petitioner was appointed as Medical Officer (Ayurvedic) on purely adhoc and temporary basis. His appointment was for a period of five months only. His appointment had come to an end in the month of August, 1985. The Department has not regularised his services. When the candidates were called from the Employment Exchange for interview to be held on 7th October, 1985 for appointment to the post of Medical Officer (Ayurvedic), name of the petitioner was not forwarded by the Employment Exchange. Still the respondents acted fairly, and at the request of the petitioner he was also allowed to appear in the interview. But the petitioner was not selected. The selected candidates were given appointment under order dated 27th October, 1985, but the petitioner has not challenged the appointment of those persons. Those persons are not parties to this petition.

2. It is settled law that a temporary Government servant does not become permanent unless he acquires that capacity by force of any rule or is declared as permanent servant. Reference in this respect may have to be made to the decision of the Hon'ble Supreme Court in the case of Madhya Pradesh Hasta Shilpa Vikas Nigam Ltd., vs. Devendra Kumar Jain, reported in JT 1995(1) SC 198. The petitioner was not selected for regular appointment by the Selection Committee. He has only a right of consideration for appointment in public employment, but no right of appointment. The petitioner has taken chance before the Selection Committee for his appointment, and when he failed therein he filed special civil application and prayer has been made for direction to the respondents to regularise his appointment as Medical Officer (Ayurvedic) on which post he has worked only for five months on purely adhoc basis. Adhoc appointment cannot be permitted to be conduit pipe for regular appointment as it will open flood gates for corruption in the country. Not only this, if such prayers are granted by the Court then judicial process will be another mode of recruitment than what has been provided under Rules framed under Article 309 of the Constitution of India or executive instructions issued under Article 166 of the Constitution of India. Not only that, if such

appointments are ordered to be regularised, then this court will be asking the respondents to act contrary to the constitutional provisions under Articles 14 and 16. This special civil application is wholly misconceived and the same is dismissed. Rule discharged. The petitioner has unnecessarily dragged the State into litigation. The State had to incur expenditure to defend this litigation filed against it in this Court. The State has incurred expenditure in the litigation out of public money. The public money cannot be allowed to be wasted for defending frivolous petitions like the present one. The petitioner is directed to pay Rs.1,000/- by way of cost of this petition to respondent No.1.

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